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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

CENTER FOR BIOLOGICAL
DIVERSITY, et al.,

Plaintiffs,

v.

DOUG BURGUM, et al.,

Defendants,

and

SABLE OFFSHORE CORP.,

Intervenor-Defendant.

Case No. 2:24-cv-05459-MWC-MAA

**PLAINTIFFS' RESPONSE TO
INTERVENOR-DEFENDANT
SABLE OFFSHORE CORP.'S
NOTICE OF REVISED FEDERAL
REGULATIONS**

Judge: Hon. Michelle Williams Court

Intervenor-Defendant Sable Offshore Corp. (Sable) calls the Court’s attention to recent revisions to the U.S. Department of the Interior’s regulations implementing the National Environmental Policy Act (NEPA), claiming the revisions support its assertion that Plaintiffs’ case is moot. *See* Dkt. No. 81. Sable is mistaken in three key respects.

First, the changes have no bearing on Plaintiffs’ first claim for relief, which does not raise a NEPA claim but challenges the Bureau of Safety and Environmental Enforcement’s (BSEE) 2023 lease extensions decision under the Outer Continental Shelf Lands Act, its implementing regulations, and the Administrative Procedure Act. *See* Dkt. No. 38-2 ¶¶ 148–153; Dkt. No. 68 at 9–11. Plaintiffs’ briefing explained how BSEE’s 2025 lease extensions decision cannot supersede its 2023 lease extensions decision where BSEE and Sable took subsequent action in reliance on the 2023 decision and harm from that decision remains. Dkt. No. 78 at 4, 7.

Second, the regulatory changes regarding the use of categorical exclusions and extraordinary circumstances do not affect Plaintiffs’ arguments why BSEE’s categorical exclusion reviews are arbitrary. The regulations still mandate that when an action “meets *any* of the [listed] extraordinary circumstances,” a NEPA analysis “must be prepared.” 43 C.F.R. § 46.205(c)(1) (2025) (emphasis added). Moreover, each of the extraordinary circumstances that Plaintiffs rely on in their briefing to show how BSEE’s categorical exclusion reviews are arbitrary remain in the regulations. *See id.* § 46.215(a)–(c), (g); Dkt. No. 68 at 13–14, 15–20. Indeed, Sable points not to any argument or citations in Plaintiffs’ briefing, but to a single citation in their amended complaint. Dkt. No. 81 at 3 (citing Dkt. No. 38-2 ¶ 59).¹

¹ In arguing BSEE’s reliance on environmental impact statements from 1975 and 1984 and its attendant failure to supplement those old analyses is arbitrary, Plaintiffs cited a regulation that the revisions repealed: 43 C.F.R. § 46.120(c); Dkt No. 68 at 22. This has no bearing on Plaintiffs’ fourth claim for relief, however, because BSEE’s duty to supplement outdated NEPA analyses comes from the statute itself. Dkt No. 68 at 4, n.2; *id.* at 21–22 (citing cases).

